

EXHIBIT C

**Hood Canal Strait of Juan de Fuca
Wildstock Harvest Plan and Cultivated
Shellfish Harvest Plan**

Parcel Number(s): _____ Mason County parcel number(s) _____
Tideland Common Name: _____
Physical Address: _____

WILD STOCK SHELLFISH HARVEST PLAN

1. **Harvest Plan; Parties:** The Jamestown S’Klallam Tribe, Lower Elwha Klallam Tribe, Port Gamble S’Klallam Tribe, Skokomish Indian Tribe, and Suquamish Indian Tribe have adjudicated usual and accustomed fishing grounds and stations within the Hood Canal Fishery. *United States v. Washington*, C70-9213. The Parties to this harvest plan (“Harvest Plan”) are the: _____ (“Shellfish Company”); tideland owner(s) _____ (“Owner”); and

- ☐ **South of Ayock Point:** The Skokomish Indian Tribe.
- ☐ **North of Ayock Point and South of the Termination Point Line:** The Jamestown S’Klallam Tribe, Lower Elwha Klallam Tribe, Port Gamble S’Klallam Tribe, and Skokomish Indian Tribe.
- ☐ **North of the Termination Point Line and South of the Foulweather Bluff Line:** The Jamestown S’Klallam Tribe, Lower Elwha Klallam Tribe, Port Gamble S’Klallam Tribe, Skokomish Indian Tribe, and Suquamish Indian Tribe.

“Termination Point Line” means “the line . . . commencing on the west shore of Hood Canal at Termination Point and following the course of the Hood Canal Floating Bridge to the east shore of the canal.” *United States v. Washington*, 626 F. Supp. at 1486-1487.

“Foulweather Bluff Line” means “a line drawn between Foulweather Bluff and Olele Point”. *Id.* at 1469.

2. **Tideland Covered:** The tideland (“Tideland”) specifically covered under this Harvest Plan includes Mason County parcel number(s) _____. The physical address for the Tideland is _____.
3. **Term:** This Harvest Plan commences on _____ and terminates when: (a) the Shellfish Company no longer controls harvest rights to the Tideland; and/or (b) a notice of intent to cultivate (or grow) shellfish on Tideland is served on the affected tribe(s).

Notwithstanding the termination of this Harvest Plan, the Owner and affected Tribe(s) remain bound to the agreed upon harvest shares for the remainder of that harvest cycle.

4. **Surveys and Population Estimates:** Surveys and/or population estimates may be conducted upon thirty (30) days’ advanced notice.

WILD STOCK SHELLFISH HARVEST PLAN

[Insert County Name] Parcel No. [_____] / Tideland Common Name: [_____]
PF US PNP-01000-SIP (HC) (2019 01-22 v.1)

- 5. Harvest Cycles; Shares:** Harvest cycles shall be scheduled on a standard allocation period for the species of shellfish (e.g., currently three years for clams and four years for oysters). Prior to commencing the initial harvest cycle, a survey and/or population estimate was conducted. There are no cultivated shellfish or enhanced beds or artificial beds located on the Tideland. The shares of mature wild stock shellfish available for the initial harvest cycle are listed in the following Chart:

Shellfish Species	Non-Treaty Share	Treaty Share
Pacific Oysters	dozen	dozen
Manila Clams	lbs	lbs
Others Reserved	N/A	N/A

Prior to the end of each harvest cycle, the affected Tribe(s) or Shellfish Company shall exercise best efforts to conduct a survey or population estimate to determine the shares of shellfish for the subsequent cycle. The Parties shall act in good faith to schedule the survey or population estimate.

- 6. Modification:** During any harvest cycle, circumstances beyond the control of the Parties may result in the available shares of mature wild stock shellfish being greater or lesser than previously determined. In such situations and upon agreement, the shares may be increased or reduced for the remainder of that harvest cycle. Any modification shall be based upon a current survey and/or population estimate.
- 7. Harvests Notice:** Tribal harvests may be conducted upon thirty (30) days' advanced notice.

If the Tideland is located North of Ayock Point: (a) the affected Tribes shall comply with the terms of any intertribal management agreement for private tidelands, so long as, the agreement remains in force and effect; and (b) in the absence of such an agreement, the affected Tribes shall coordinate among themselves, in good faith, harvesting on the Tideland.

- 8. Harvest Access:** Access to the Tideland will be: (a) by water or across public lands or by public right of way; (b) by upland access, if granted by the Owner; and/or (c) by upland access, if there is no other reasonable and/or safe means of access.

The Owner notifies the Parties that it assumes no risk or liability for any accidental injuries sustained while accessing the Tideland. The Owner remains responsible for all intentional torts and criminal acts committed by the Owner against the Tribe(s), their employees and members.

- 9. Harvest Methods; Frequency:** Any harvest shall be subject to, and conducted in accordance with, all applicable laws, statutes, rules and regulations. Traditional and/or contemporary methods of harvesting shellfish may be utilized. The Parties are individually responsible for determining the number of their harvesters that may participate in each harvest and/or for employing other measures to prevent overharvests. Treaty harvests will occur on daylight tides, unless a night harvest is necessary for the affected Tribe(s) to complete their harvest during any one harvest cycle. Furthermore, the affected Tribe(s) shall ensure that a harvest monitor and/or enforcement officer is present during any scheduled harvest.

All Tribal harvests of properties less than two hundred (200) feet in width shall be limited to five days per calendar year. If a property is two hundred (200) feet or wider along the beach front, the number shall be increased by one additional harvest day per calendar year for every additional fifty (50) feet of property.

- 10. Harvest Records:** Harvest records shall be exchanged within thirty (30) days of any harvest from this Tideland.

- 11. Harvest Plan Representatives and Service:** Unless expressly provided otherwise within this Harvest Plan, any notice, demand or other communication required to be given or delivered pursuant to this Harvest Plan shall be in writing and shall be deemed to have been given either when personally delivered or sent by fax or sent by email or three days following mailing by certified mail, postage prepaid, return receipt requested.

Notice to the Jamestown S’Kallam Tribe and Port Gamble S’Kallam Tribe shall be directed to Shannon Miller, the Point No Point Treaty Council’s Harvest Plan Representative, at: 19472 Powder Hill Place NE, Suite 210, Poulsbo, WA 98370; Tel. No. 360-297-6538; Fax No. 360-297-3413; Email Address smiller@pnptc.org.

Notice to Lower Elwha Klallam Tribe shall be directed to Robert Elofson at: 51 Hatchery Road, Port Angeles, WA 98363; Tel. No. 360-457-4012 Ext. 7485; Fax No. 360-452-4848; Email Address robert.elifson@elwha.org.

Notice to the Skokomish Indian Tribe shall be directed to Jonathon Wolf, the Tribe’s Harvest Plan Representative, at: Skokomish Indian Tribe, Natural Resource Department, N. 541 Tribal Center Road, Skokomish Nation, WA 98584; Tel. No. 360-877-5213; Fax No. 360-877-5148; Email Address jwolf@skokomish.org.

Notice shall also be served upon: Earle D. Lees, Tribal Attorney, Skokomish Legal Department, N. 80 Tribal Center Road, Skokomish Nation, Washington 98584; Tel. No. 360-877-2100; Fax No. 360-877-2104; Email Address elees@skokomish.org.

Notice to Suquamish Indian Tribe shall be directed to _____ at: _____ ; Tel. No. _____
; Fax No. _____ ; Email Address _____

Notice to the Shellfish Company shall be directed to _____, the Shellfish
Company's Harvest Plan Representative, at: _____ ; Tel. No. _____ ; Fax No. _____
; Email Address _____

Notice to the Owner shall be directed to _____ at: _____ ; Tel. No. _____ ; Fax No. _____
; Email Address _____

The Harvest Plan Representatives may be replaced upon written notice.

12. Interpretation: The Parties acknowledge that the terms and conditions of this Harvest Plan have resulted from the negotiations of the Parties and that no Party will be deemed to be the drafter or author of this Harvest Plan. The language in all parts of this Harvest Plan will, in all cases, be construed as a whole according to its meaning and not strictly for or against any Party. This Harvest Plan may not be amended or modified unless in writing and upon mutual consent of the Parties to this Harvest Plan. Except to the extent expressly stated herein, this Harvest Plan is not intended to supersede applicable provisions of the Revised Shellfish Implementation Plan (Sub. No. 89-3, Dkt. No. 14331).

13. Waiver: A Party's failure to exercise or delay in exercising any right, power or privilege shall not operate as a waiver; nor shall any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof.

14. Dispute Resolution: All Parties agree to harvest in a respectful and courteous manner, and to instruct all employees or members to also be respectful and courteous when accessing the Tideland. Good faith is implied in this Harvest Plan. Disputes arising from this Harvest Plan shall be resolved informally and, if such attempts fail, disputes may be submitted for resolution consistent with the provisions of the Revised Shellfish Implementation Plan, or its successor Plan.

The following are expressly prohibited and constitute a material breach of this Harvest Plan for which a remedy may be fashioned: (a) denying access; (b) overharvesting; and/or (c) engaging in conduct that unlawfully interferes with shellfishing activities. The foregoing is not an exhaustive list of matters that are subject to dispute resolution.

EXECUTION OF THIS HARVEST PLAN

The undersigned execute this Harvest Plan on the date herein indicated.

SHELLFISH COMPANY

Date

EIN/SSN/Other Tax Id. Number

Street Address

City/State/Zip

Telephone Number

Fax Number

Email Address

JAMESTOWN S'KLALLAM TRIBE

Date

(If Applicable, See Paragraph 1 of this Harvest Plan)

PORT GAMBLE S'KLALLAM TRIBE

Date

(If Applicable, See Paragraph 1 of this Harvest Plan)

LOWER EL WHA KLALLAM TRIBE

Date

(If Applicable, See Paragraph 1 of this Harvest Plan)

SKOKOMISH INDIAN TRIBE

Date

Jonathon Wolf

SUQUAMISH INDIAN TRIBE

Date

(If Applicable, See Paragraph 1 of this Harvest Plan)

TIDELAND OWNER

Date

WILD STOCK SHELLFISH HARVEST PLAN

[Insert County Name] Parcel No. [_____] / Tideland Common Name: [_____]

PF US PNP-01000-SIP (HC) (2019 01-22 v.1)

Parcel Number(s): _____ Mason County parcel number(s) _____
Tideland Common Name: _____
Physical Address: _____

CULTIVATED SHELLFISH HARVEST PLAN

1. **Harvest Plan; Parties:** The Jamestown S’Klallam Tribe, Lower Elwha Klallam Tribe, Port Gamble S’Klallam Tribe, Skokomish Indian Tribe, and Suquamish Indian Tribe have adjudicated usual and accustomed fishing grounds and stations within the Hood Canal Fishery. *United States v. Washington*, C70-9213. The Parties to this harvest plan (“Harvest Plan”) are the: (“Grower”); tideland owner(s) (“Owner”); and

- ☐ **South of Ayock Point:** The Skokomish Indian Tribe.
- ☐ **North of Ayock Point and South of the Termination Point Line:** The Jamestown S’Klallam Tribe, Lower Elwha Klallam Tribe, Port Gamble S’Klallam Tribe, and Skokomish Indian Tribe.
- ☐ **North of the Termination Point Line and South of the Foulweather Bluff Line:** The Jamestown S’Klallam Tribe, Lower Elwha Klallam Tribe, Port Gamble S’Klallam Tribe, Skokomish Indian Tribe, and Suquamish Indian Tribe.

“Termination Point Line” means “the line . . . commencing on the west shore of Hood Canal at Termination Point and following the course of the Hood Canal Floating Bridge to the east shore of the canal.” *United States v. Washington*, 626 F. Supp. at 1486-1487.

“Foulweather Bluff Line” means “a line drawn between Foulweather Bluff and Olele Point”. *Id.* at 1469.

2. **Tideland Covered:** The tideland (“Tideland”) specifically covered under this Harvest Plan includes Mason County parcel number(s) _____. The physical address for the Tideland is _____.
3. **Term:** This Harvest Plan commences on _____ and terminates when: (a) the Grower no longer controls the cultivation and harvest rights for the Tideland; and/or (b) a notice of intent to alter or discontinue shellfish cultivation (or growing) activities on Tideland is served on the affected tribe(s).
4. **Surveys and Population Estimates:** Surveys and/or population estimates may be conducted upon fourteen (14) days’ advanced notice.

CULTIVATED SHELLFISH HARVEST PLAN

[Insert County Name] Parcel No. [_____] / Tideland Common Name: [_____]
PF US PNP-02000-SIP (HC) (2019 01-22 v.1)

5. **Harvest Cycles; Shares:** Harvest cycles shall be scheduled on a standard allocation period for the species of shellfish (e.g., currently three years for clams and four years for oysters).

As determined by a survey and/or population estimate, the fixed Treaty Share of shellfish available for the initial and subsequent harvest cycles is listed in the following Chart:

Shellfish Species	Treaty Share
Pacific Oysters	dozen
Manila Clams	lbs
Others Reserved	N/A

6. **Modification:** The Treaty Share described in Section 5 shall be fixed and remain in effect for subsequent harvest cycles except as modified pursuant to this Section. Circumstances beyond the control of the Parties may decrease or increase the amount of shellfish available for the Treaty Share. Such circumstances could include, for instance: catastrophic mortality associated with disease or environmental conditions; a substantial increase in natural production of clams and/or oysters; or a down-grade in growing area classification by the Washington State Department of Health. Any decrease or increase in the Treaty Share beyond the original fixed amount shall be agreed to in writing by the Parties for one or multiple harvest cycles. Any modification shall be based upon a current survey and/or population estimate. Under no circumstances, however, shall the fixed Treaty Share be modified unless the Parties first mutually agree in writing to exchange harvest records.
7. **Harvests Notice:** The affected Tribe(s) shall serve the Grower with the proposed dates and times for a Tribal harvest on the Tideland at least thirty (30) days in advance of the proposed Tribal harvest (i.e., the "Harvest Notice"). Any objections shall be served in writing within three (3) days of service of the Harvest Notice. However, the affected Tribe(s) is/are not required to change the proposed dates and times unless the schedule will result in a significant and negative impact to the Grower's crops and operations. See Revised Shellfish Implementation Plan at § 6.2 (Sub. No. 89-3, Dkt. No. 14331).

If the Tideland is located North of Ayock Point: (a) the affected Tribes shall comply with the terms of any intertribal management agreement for private tidelands, so long as, the agreement remains in force and effect; and (b) in the absence of such an agreement, the affected Tribes shall coordinate among themselves, in good faith, harvesting on the Tideland.

8. **Harvest Access:** Access to the Tideland will be: (a) by water or across public lands or by public right of way; (b) by upland access, if granted by the Owner; and/or (c) by upland access, if there is no other reasonable and/or safe means of access.

Prior to any harvest for which the Parties agree to divide the Tideland, the Parties shall also mutually agree in writing upon a map depicting those areas on the Tideland that may be accessed in order to harvest the Treaty Share while avoiding damage to the Grower's equipment and gear (if any). The Owner notifies the Parties that it assumes no risk or liability for any accidental injuries sustained while accessing the Tideland. The Owner remains responsible for all intentional torts and criminal acts committed by the Owner against the Tribe(s), their employees and members.

9. **Harvest Methods; Frequency:** Any harvest shall be subject to, and conducted in accordance with, all applicable laws, statutes, rules and regulations. Traditional and/or contemporary methods of harvesting shellfish may be utilized. The Parties are individually responsible for determining the number of their harvesters that may participate in each harvest and/or for employing other measures to prevent overharvests. Furthermore, the affected tribe(s) shall ensure that a harvest monitor and/or enforcement officer is present during any scheduled harvest. The Grower, lastly, shall provide a reasonable and fair opportunity to harvest the full Treaty share of shellfish during each harvest cycle.
10. **Harvest Records:** Upon written request, the Tribes shall provide harvest records within thirty (30) days of the completed harvest cycle from the Tideland. In the event that the Tribes are unable to obtain their Treaty share within any harvest cycle due to circumstances out of their control, the Tribes may request that the Grower submit its harvest records. The Grower shall provide such harvest records, with any confidential information redacted, within thirty (30) days of receiving the request.
11. **Harvest Plan Representatives and Service:** Unless expressly provided otherwise within this Harvest Plan, any notice, demand or other communication required to be given or delivered pursuant to this Harvest Plan shall be in writing and shall be deemed to have been given either when personally delivered or sent by fax or sent by email or three days following mailing by certified mail, postage prepaid, return receipt requested.

Notice to the Jamestown S'Kallam Tribe and Port Gamble S'Kallam Tribe shall be directed to Shannon Miller, the Point No Point Treaty Council's Harvest Plan Representative, at: 19472 Powder Hill Place NE, Suite 210, Poulsbo, WA 98370; Tel. No. 360-297-6538; Fax No. 360-297-3413; Email Address smiller@pnptc.org.

Notice to Lower Elwha Klallam Tribe shall be directed to Robert Elofson at: 51 Hatchery Road, Port Angeles, WA 98363; Tel. No. 360-457-4012 Ext. 7485; Fax No. 360-452-4848; Email Address robert.elifson@elwha.org.

Notice to the Skokomish Indian Tribe shall be directed to Jonathon Wolf, the Tribe's Harvest Plan Representative, at: Skokomish Indian Tribe, Natural Resource Department, N. 541 Tribal Center Road, Skokomish Nation, WA 98584; Tel. No. 360-877-5213; Fax No. 360-877-5148; Email Address jwolf@skokomish.org.

Notice shall also be served upon: Earle D. Lees, Tribal Attorney, Skokomish Legal Department, N. 80 Tribal Center Road, Skokomish Nation, Washington 98584; Tel. No. 360-877-2100; Fax No. 360-877-2104; Email Address elees@skokomish.org.

Notice to Suquamish Indian Tribe shall be directed to _____ at: _____; Tel. No. _____; Fax No. _____; Email Address _____.

Notice to the Grower shall be directed to _____, the Grower's Harvest Plan Representative, at: _____; Tel. No. _____; Fax No. _____; Email Address _____.

Notice to the Owner shall be directed to _____ at: _____; Tel. No. _____; Fax No. _____; Email Address _____.

The Harvest Plan Representatives may be replaced upon written notice.

- 12. Interpretation:** The Parties acknowledge that the terms and conditions of this Harvest Plan have resulted from the negotiations of the Parties and that no Party will be deemed to be the drafter or author of this Harvest Plan. The language in all parts of this Harvest Plan will, in all cases, be construed as a whole according to its meaning and not strictly for or against any Party to this Harvest Plan. This Harvest Plan may not be amended or modified unless in writing and upon mutual consent of the Parties. Except to the extent expressly stated herein, this Harvest Plan is not intended to supersede applicable provisions of the Revised Shellfish Implementation Plan (Sub. No. 89-3, Dkt. No. 14331).
- 13. Authorization:** Tribal agreement to this Harvest Plan means that with respect to the requirements of the Revised Shellfish Implementation Plan (Sub. No. 89-3, Dkt. No. 14331), the Grower may now create an artificial bed or enhance an existing natural bed of shellfish as described in the Grower's Section 6.3 notice provided to the affected Tribe(s), while also protecting the right to harvest the Treaty Share of shellfish listed in Section 5. This provision does not mean that the affected Tribe(s) waive any right or ability to object to other permits any Grower may need in order to legally obtain the right to cultivate shellfish.
- 14. Waiver:** A Party's failure to exercise or delay in exercising any right, power or privilege shall not operate as a waiver; nor shall any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof.
- 15. Dispute Resolution:** All Parties agree to harvest in a respectful and courteous manner, and to instruct all employees or members to also be respectful and courteous when accessing the Tideland. Good faith is implied in this Harvest Plan. Disputes arising from this Harvest Plan shall be resolved informally and, if such attempts fail, disputes may be submitted for resolution consistent with the provisions of the Revised Shellfish Implementation Plan, or its successor Plan.

The following are expressly prohibited and constitute a material breach of this Harvest Plan for which a remedy may be fashioned: (a) denying access; (b) overharvesting; and (c) engaging in conduct that unlawfully interferes with shellfishing activities. The foregoing is not an exhaustive list of matters that are subject to dispute resolution.

EXECUTION OF THIS HARVEST PLAN

The undersigned execute this Harvest Plan on the date herein indicated.

GROWER

JAMESTOWN S'KLALLAM TRIBE

_____| **Date**

_____| **Date**

(If Applicable, See Paragraph 1 of this Harvest Plan)

EIN/SSN/Other Tax Id. Number

PORT GAMBLE S'KLALLAM TRIBE

_____| **Date**

(If Applicable, See Paragraph 1 of this Harvest Plan)

Street Address

LOWER ELWHA KLALLAM TRIBE

City/State/Zip

_____| **Date**

(If Applicable, See Paragraph 1 of this Harvest Plan)

Telephone Number

SKOKOMISH INDIAN TRIBE

Fax Number

_____| **Date**

Jonathon Wolf

Email Address

SUQUAMISH INDIAN TRIBE

_____| **Date**

(If Applicable, See Paragraph 1 of this Harvest Plan)

TIDELAND OWNER

_____| **Date**

CULTIVATED SHELLFISH HARVEST PLAN

[Insert County Name] Parcel No. [_____] / Tideland Common Name: [_____] / PF US PNP-02000-SIP (HC) (2019 01-22 v.1)